

MAR 24 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GULMARO TORRES-LEON,

Defendant - Appellant.

No. 08-30236

D.C. No. 1:07-cr-00086-RFC-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, Chief District Judge, Presiding

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Gulmaro Torres-Leon appeals from the 360-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm, but remand to correct the judgment.

Torres-Leon contends that the district court erred when it imposed a two-level obstruction of justice enhancement, pursuant to U.S.S.G. § 3C1.1. We conclude that the district court did not clearly err. *See* U.S.S.G. § 3C1.1, cmt. n.4(a); *see also United States v. Jackson*, 974 F.2d 104, 105-06 (9th Cir. 1992).

Torres-Leon also contends that the district court erred when it imposed a four-level leadership enhancement, pursuant to U.S.S.G. § 3B1.1(a). We conclude that the district court did not clearly err. *See United States v. Rivera*, 527 F.3d 891, 908 (9th Cir. 2008).

Finally, Torres-Leon contends that the district court procedurally erred by engaging in a legally insufficient analysis of the 18 U.S.C. § 3553(a) sentencing factors and that his sentence is substantively unreasonable. We conclude that the district court did not procedurally err and that Torres-Leon's sentence is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc); *see also United States v. Shabani*, 48 F.3d 401, 404 (9th Cir. 1995).

We remand with instructions that the district court change the term of supervised release in the written judgment to a period of five years, making it consistent with the district court's oral pronouncement at sentencing. *See United States v. Fifield*, 432 F.3d 1056, 1059 fn.3 (9th Cir. 2005).

AFFIRMED; REMANDED to correct the judgment.